

United States Environmental Protection Agency
Region I - New England
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912



October 6, 2010

Thomas Jagielski, Environmental Manager
International Business Machines Corporation.
1000 River Road
Essex Junction, VT 05452

RE: June 14, 2010, Spill Prevention, Control, and Countermeasure ("SPCC") Inspection

Dear Mr. Jagielski:

On June 14, 2010, the U.S. Environmental Protection Agency (the "EPA") conducted an announced inspection at IBM's facility located in Essex Junction, VT. The purpose of the inspection is to evaluate the facility's oil storage program under the EPA's Oil Pollution Prevention Regulations at 40 C.F.R. Part 112. The EPA would like to thank you for your assistance during the inspection.

Prior to 2000, IBM's facility had a total fuel-oil storage capacity greater than one-million gallons. As such, IBM was required to develop and implement a federally approved Facility Response Plan ("FRP") in accordance with 40 C.F.R. § 112.20. In March 2000, IBM removed a 300,000-gallon fuel-oil storage tank thereby reducing its total fuel-oil storage capacity to a level below one-million gallons. As such, IBM is no longer required to have a FRP in accordance with 40 C.F.R. § 112.20. However, if IBM should in the future install additional fuel-oil storage containers/tanks which increase the facility's total fuel-oil storage capacity to a level greater than one-million gallons, IBM would be required to prepare and submit a FRP to EPA.

The EPA has completed its review of IBM's May 2006 SPCC Plan. Comments are provided in Attachment A, and in EPA's SPCC Field Inspection and Plan Review. Within 30 days of receiving this letter, please provide the EPA with a response that indicates what has been done, or what will be done, regarding the issues identified in this letter. If you have any questions regarding the information in this letter, you may reach me at (617) 918-1763 or e-mail me at "canzano.joseph@epa.gov"

Sincerely,

Joseph Canzano, P.E.
Regional SPCC Compliance Coordinator
Office of Environmental Stewardship

Joe's Copy

Attachment A

International Business Machines Corporation.
1000 River Road
Essex Junction, VT 05452

June 14, 2010, SPCC Inspection

- The SPCC Plan is not stamped by a licensed professional engineer ("P.E."). While the SPCC Plan includes the "Engineers Certification", the P.E. (Mr. Jay Dietrich) did not stamp the SPCC Plan. In accordance with 40 C.F.R. § 112.3(d) the SPCC Plan shall be stamped and certified by the P.E.
 - Section A.7. of the SPCC Plan "Oil Spill History" states that the facility has experienced no significant fuel-oil spill(s) since the last major SPCC Plan revision. This statement suggests that the IBM facility may have experienced an oil spill in the past, and that the spill occurred prior to the last major SPCC Plan revisions. The cover page to the Plan indicates numerous revisions by ABB Environmental Services, Inc, IBM and/or Griffin International. The Plan doesn't explain clearly if under 40 C.F.R. § 112.4(a) a spill has occurred. IBM shall specifically use the language within 40 C.F.R. § 112.4(a) in the SPCC Plan to address past fuel-oil spills. Documenting past spills in a SPCC Plan is not contingent upon amendments or revisions.
 - The SPCC Plan is not signed by management, and the language in Chapter 2.A. "Authority" of the Plan is not complete regarding 40 C.F.R. § 112.7. Under 40 C.F.R. § 112.7 the SPCC Plan is required to have "full approval of management at a level of authority to commit the necessary resources to fully implement the Plan." IBM's management shall sign the SPCC Plan, and the Plan shall include specific language that is consistent with 40 C.F.R. § 112.7.
 - The person(s) designated for fuel-oil spill prevention responsibilities within the SPCC Plan may not be up-to-date. The Plan identifies: P. Hewlett and C. Callahan. At the time of the inspection it was not clear to EPA if these employees continue to have responsibilities under the Plan. Please up-date this section of your SPCC Plan accordingly.
- End of Comments.

**USEPA REGION I
FACILITY INFORMATION**

Inspector's Name: <u>Joe Contorno</u>		FRP REGIONAL # <u>N/A</u>
Inspection Team Members:		
Type of Inspection: <input checked="" type="checkbox"/> SPCC <input checked="" type="checkbox"/> FRP <input type="checkbox"/> SPCC and FRP <input type="checkbox"/> Follow-up Inspection <input type="checkbox"/> Plan Review <input type="checkbox"/>		
Name of Facility: <u>IBM</u>		
Facility Address: <u>1000 River Road/St</u>		
City: <u>Essex Junction</u>	County: <u>CHITTENDEN</u>	State: <u>VT</u> Zip: <u>05452</u>
Latitude: <u>44.478</u>	Longitude: <u>73.100</u>	
Nearest "Waters of the U.S.": <u>Winooski River</u>		
Facility Contact: <u>THOMAS LAURENT</u>		Title: <u>Environmental Mgr</u>
Facility Contact: <u>ERIC BERLINER</u>		Title: <u>Environmental Mgr</u>
Telephone Number: <u>802-769-4747</u>		
Name of Owner/Operator: <u>IBM</u>		
Corporate Address: <u>SAA</u>		
City: <u>SAA</u>	State: <u>SAA</u>	Zip: <u>SAA</u>
Corporate Contact: <u>Patric Adreatico</u>		Title: <u>Chief Environmental Mgr</u>
Telephone Numbers: 1. <u>919-766-2725</u> 2. <u>N/A</u>		
Synopsis of business operations: <u>Manufacture of semiconductors</u>		
Facility is: <input type="checkbox"/> Unattended <input type="checkbox"/> Attended <input checked="" type="checkbox"/> 8 hrs <input checked="" type="checkbox"/> 24 hrs <input type="checkbox"/> Periodically <input type="checkbox"/> Other (Specify) <u>365 days/yr</u>		
How many employees at this Facility? <u>4500</u>		
If unmanned, number of employees needed to operate the Facility? <u>N/A</u>		

* Does not include oil-filled operational equipment, i.e. elevators, hydro-equipment.

Total Facility Oil Storage Capacity: 970,382 gallons

* Total Oil-Filled Equipment Storage 67,905 gallons

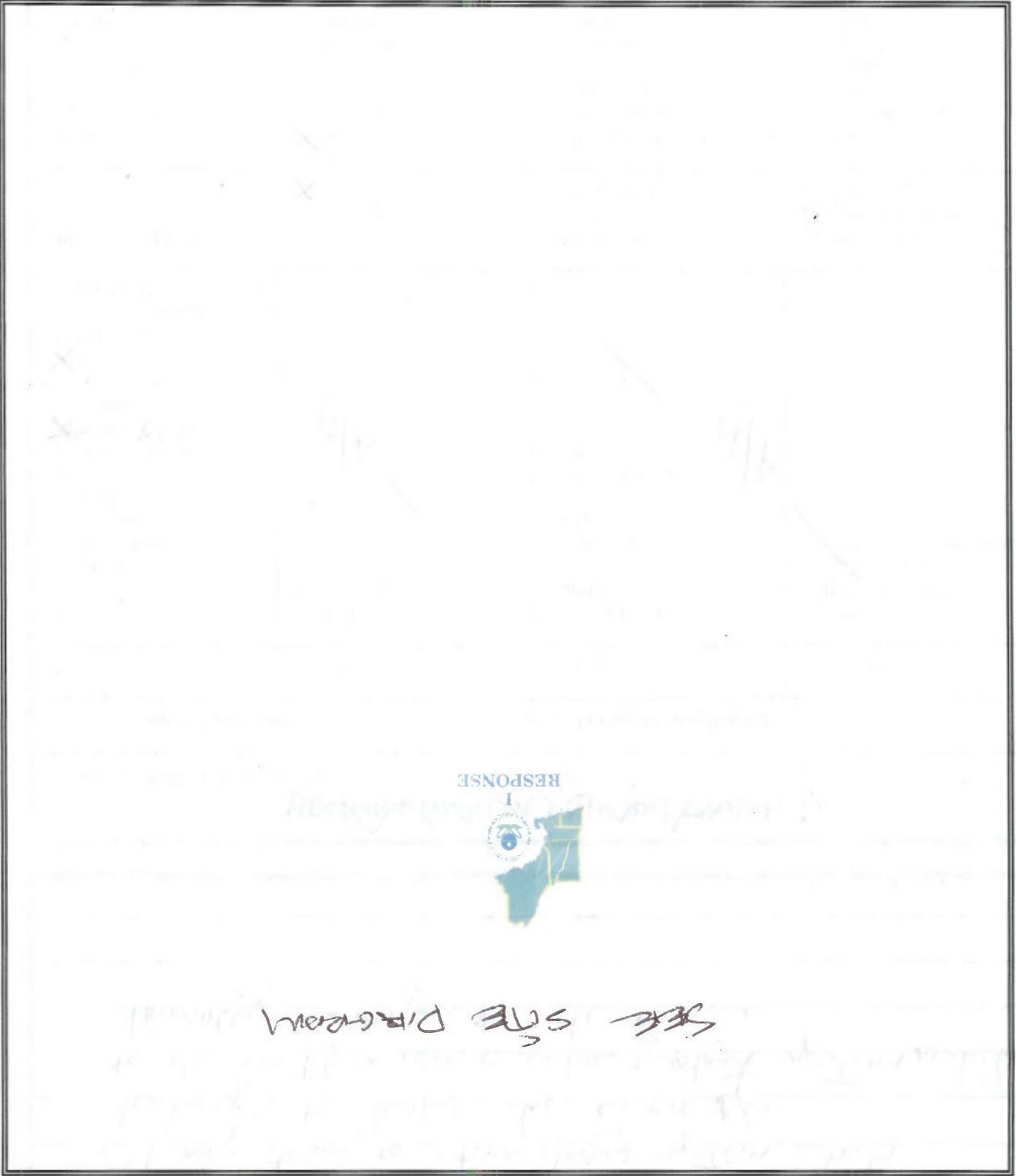
Total Bulk Below Ground Storage: ∅ gallons

Total Bulk Above Ground Storage: 902,477 gallons

ITEM	TANK ID	SHELL CAPACITY	PRODUCT	ITEM	TANK ID	SHELL CAPACITY	PRODUCT
1.		SEE		2.			
3.		TABLE		4.			
5.		I-1		6.			
7.		IN		8.			
9.		SPCC PAN		10.			
11.				12.			
13.				14.			
15.				16.			
17.				18.			
19.				20.			
21.				22.			
23.				24.			
25.				26.			

Complete only if not otherwise available in FRP or SPCC plan.

FACILITY STORAGE INVENTORY



Sketch only if not otherwise available in FRP or SPCC plan. Otherwise, insert a facility diagram here from one of these plans.

FACILITY DIAGRAM

For SPCC Facilities

The Oil Pollution Prevention Regulations at 40 C.F.R. Part 112 do not appear to be applicable to this facility.

The Oil Pollution Prevention Regulations at 40 C.F.R. Part 112 are applicable to this facility.

If EPA has indicated above that your facility is subject to the Oil Pollution Prevention Regulations found at 40 C.F.R. Part 112, and you do not have a SPCC Plan, you are hereby required to develop and submit the Plan to EPA within 30 days of receiving this notice. In addition, provide EPA with a statement detailing the actions taken by the facility to correct deficiencies specified in the SPCC Field Inspection and Plan Review Checklist that has been provided to you separately. If, in order to correct the deficiencies, your facility is required to amend an existing SPCC Plan, you are also required to submit a copy of the revised SPCC Plan. If completion of the revised SPCC Plan is not feasible within 30 days, you are required to submit a detailed schedule stating by what time the SPCC Plan will be revised and submitted to EPA. If applicable, the schedule shall include the name and address of the registered professional engineer certifying the SPCC Plan. If the SPCC Plan requires construction of secondary containment at the facility, the schedule should include specific construction milestone dates for when secondary containment will be complete. This information shall be sent certified mail to the attention of the EPA inspector listed below at the following address:

RESPONSE

U.S. Environmental Protection Agency - New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

will get later,

Please be advised that the facility's potential noncompliance with the Oil Pollution Prevention Regulations at 40 C.F.R. Part 112 may constitute a violation of the Clean Water Act for which both injunctive relief and penalties can be sought. Under the Clean Water Act, the facility is subject to penalties up to \$32,500 per day for violations occurring after March 15, 2004, but prior to and including January 12, 2009, and \$37,500 per day for each violation occurring after January 12, 2009.

EPA reserves its right to take an enforcement action pursuant to the Clean Water Act, including the right to seek penalties, for any violations detected at the above-referenced inspection. Although preparing and/or revising an SPCC plan and submitting it to EPA does not preclude EPA from seeking penalties for violations of the Clean Water Act, your prompt response towards coming into full compliance with the Oil Pollution Prevention Regulations will be taken into account in determining EPA's enforcement response.

EPA Inspector Signature: [Signature]
 EPA Inspector Printed Name: Tom Leonard
 Date: 6/14/10
 Title: Regional SPCC Compliance Coordinator

I acknowledge having received an SPCC inspection by EPA on this date.
 Company Contact Signature: [Signature]
 Company Contact Printed Name: THOMAS A. JACOBSON
 Date: 6/14/2010
 Title: Mar-Enviro Records

For FRP Facilities

The Oil Pollution Prevention Regulations at 40 CFR Part 112.20 do not appear to be applicable to this facility.

The Oil Pollution Prevention Regulations at 40 CFR Part 112.20 are applicable to this facility.

If EPA has indicated above that your facility is subject to the Facility Response Plan ("FRP") requirements under 40 C.F.R. §112.20, and your FRP is found to be deficient, you are hereby required to amend and submit the revised FRP to EPA within 30 days of receiving this notice. In addition, provide EPA with a statement detailing the actions taken by the facility to correct deficiencies specified in the Checklist for Verifying Compliance with Facility Response Plan Requirements that has been provided to you separately. If completion of the revised FRP is not feasible within 30 days, you are required to submit a detailed schedule stating by what time the FRP will be revised and submitted to EPA. This information shall be sent certified mail to the attention of the EPA inspector listed below at the following address:

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EPA Inspector Signature: _____

Date: _____

EPA Inspector Printed Name: _____

Title: _____

I acknowledge having received a FRP inspection by EPA on this date.

Company Contact Signature: _____

Date: _____

Company Contact Printed Name: _____

Title: _____